

REMARKS/ARGUMENTS

Applicants have studied the Office Action dated March 17, 2006 and have made amendments to the claims. It is submitted that the application, as amended, is in condition for allowance. By virtue of this amendment, claims 1-2, 4, 6-14, 16, 18-26, 28, 30-38, 40, 42-53, 55-67, and 69-70 are pending. Claims 5, 17, 29, and 41 have been cancelled without prejudice or disclaimer. Claims 1, 4, 6, 7, 13, 14, 16, 18, 19, 25, 26, 28, 30, 31, 37, 40, 50-52, 55-56, 59, 65-67 are amended. Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks is respectfully requested.

In the Office Action, the Examiner:

- (2-3) rejected claims 1, 5, 13, 25, 29, 37, 41, 50, 51, 52, 56, 65, and 66 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; and
- (4-74) rejected claims 1-2, 4-14, 16-26, 28-38, 40-53, 55-67, and 69-70 under 35 U.S.C. § 102(e) as being anticipated by Petrovykh (U.S. Pub. No. US 2002/055975 A1).

Conversation with the Examiner

The Applicants would first like to thank Examiner Nguyen for participating in an April 26, 2006 telephonic interview with the Applicants' representative, Scott Smiley. Although no agreement was reached during the interview, the Applicants' representative explained to Examiner Nguyen that the claims of the instant application have been amended to emphasize that the present invention performs two calling convention translations as opposed to the single translation of Petrovykh. Applicants' representative also explained that the present invention transmits the message to the third party application without the need for user interaction. These difference are explained in detail in the section entitled "(4-74) rejection under 35 U.S.C. § 102(e) Petrovykh" below.

(2-3) Rejection under 35 U.S.C. §112

The Examiner rejected claims 1, 5, 13, 25, 29, 37, 41, 50, 51, 52, 56, 65, and 66 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, in item 3 of the Office Action, the Examiner states that "it's unclear ... what is the calling convention, what is the functionality of the calling convention.

Applicants submit that, contrary to the Examiner's conclusion, "a calling convention" is a term that is well known by those of skill in the art. For instance, Wikipedia, the web-based encyclopedia, found at www.wikipedia.com, defines a "calling convention" as "a method for a programming language to send data to a function, and receive data back from functions. When writing a piece of software in multiple languages and modules, it is necessary for all modules to use compatible calling conventions." In addition, Newton's Telecom Dictionary, 22nd updated and expanded edition, 2006, published by CMP books of San Francisco, defines "calling" as "a procedure which consists of transmitting address signals in order to establish a link between devices that want to talk to each other" and "convention" as "a rule of conduct or behavior which has been reached by general agreement, commonly by a standards-making body, whether formal (e.g., the ITU) or ad hoc (e.g., Bell Telephone Laboratories) in nature."

These definitions are completely consistent with the use of the term "calling convention" in the specification and claims of the instant application. For instance, page 4, para. 0053 of the instant specification states:

The calling conventions utilized by Botserver base code 206 to communicate with messaging application 202 must adhere to the calling conventions of messaging API 204. Likewise, the calling conventions of messaging API 204 must adhere to the calling conventions of messaging

application 202. As a result, there is no need for Botserver base code 206 to adhere to the calling conventions used by messaging application 202. Conversely, there is no need for messaging application 202 to adhere to the calling conventions of Botserver base code 206. This is advantageous as it allows Botserver base code 206 and messaging application 202 to be independent of each other. Thus, the use of messaging API 204 increases the compatibility and portability of both Botserver base code 206 and messaging application 202.

From the above description, it is clear that calling conventions are used by the modules of the present invention to communicate with each other. Therefore, the use of the term "calling convention" in claims 1, 5, 13, 25, 29, 37, 41, 50, 51, 52, 56, 65, and 66 is completely consistent with the use of "calling convention" as used in the specification and as is known in the art. Applicants submit that the rejection of Claims 1, 5, 13, 25, 29, 37, 41, 50, 51, 52, 56, 65, and 66 under 35 U.S.C. § 112, second paragraph, as discussed above, is improper and request that the Examiner withdraw the rejection of Claims 1, 5, 13, 25, 29, 37, 41, 50, 51, 52, 56, 65, and 66.

(4-74) Rejection under 35 U.S.C. §102(e) Petrovykh

As noted above, the Examiner rejected claims 1-2, 4-14, 16-26, 28-38, 40-53, 55-67, and 69-70 under 35 U.S.C. § 102(e) as being anticipated by Petrovykh (U.S. Pub. No. US 2002/055975 A1).

Before discussing the prior art in detail, Applicants believe that a brief review of the invention as claimed, would be helpful. Amended independent claim 1 recites, *inter alia*:

a first interface mutually registered with at least one of a plurality of client messaging applications, the interface for performing the steps of:

receiving a message from the at least one of the plurality of client messaging applications; and

translating a calling convention of the message to a calling convention of a base code;

a server communicatively coupled to the first interface, the server for performing the steps of:

determining the destination of the message, wherein the destination is a third party application; and

selecting the third party application determined to be the destination of the message; and
a second interface for performing the steps of:

translating, in response to the selecting, the message in the calling convention of the base code to a calling convention of the third party application determined to be the destination of the message; and

transmitting, in response to the translating, the message to the selected third party application determined to be the destination of the message without further user intervention. (emphasis added)

The present invention is a system and method for transmitting messages from a client messaging application to a third party application. More specifically, as shown in FIG. 1, the present invention supports multiple clients, with each client having the ability to run a different type of client messaging application, such as ICQ, or AOL's IM. Page 2, para. 0038 of the instant application. The clients are connected through a network to third party applications, which are "any database system supporting the storage and retrieval of records." Page 3, para. 0046.

Botservers are provided between the clients and the third party applications. See FIG. 1. Botservers comprise the functionality of messaging server operations, message routing, message queuing, and bot operations. Page 3, para. 0042 of the instant application. Importantly, an API is present on the Botserver and acts as a translator between Botserver basecode and a messaging application. Page 4, para. 0053. Because the API is present, any instant messaging software can be utilized by the client. *Id.* **The API performs the initial translation of the calling convention of the instant messenger so that the Botserver basecode can understand it and then access the proper database for the proper records.** *Id.* This is advantageous as it allows the Botserver base code and any messaging application to be independent of each other. Therefore, Botserver basecode does not need to be concerned with the individual implementations of the messaging applications. Page 4, para. 0057.

Importantly, once the Botserver selects the third party application determined to be the destination of the message, a second API translates the message in the calling convention of the base code to a calling convention of the third party application determined to be the destination of the message. Page 4, para. 0054. Therefore, there are **two separate translations** performed by the present invention.

Additionally, once the third party application is selected, the translation is automatically performed and the message is automatically transmitted to the selected third party application. **There is no further user intervention required by the present invention for the message to reach the selected third party.** Page 5, para. 0069 and FIG. 3, elements 308 and 314.

With reference to FIG. 2B, and as explained on page 4, para. 0060 of the instant specification, "Bot 262 receives the instant message, reads the information request and accesses the requested information from the telephone number database. Bot 262 then formats and sends to the client a reply instant **message including the requested information.**" Therefore, the **entire search is performed** as a result of a single action of the user. As will be explained below, this is an important distinction over Petrovykh.

Petrovykh discloses an interface that enables users to browse agent-availability statistics before initiating any type of contact with a communication center 21. Petrovykh, page 7, para. 0077. In the event that a response message or downloaded interface reveals an available customer service agent, the user can initiate contact with that agent using provided contact links or information. *Id.*

FIG. 1 of Petrovykh shows a user 9 connected to the communication center 21 via a web server 15. The communication center 21 includes a status server 49 that monitors a plurality of agent workstations 27, 29, 31. Petrovykh, page 6, para. 0070.

When a client enters information, such as "a product description, profile information, or a purpose for the desired contact with [the] communication center," into

a "Web form," the request for information is routed to the communication center's status server 49. Petrovykh, page 7, para. 0073. The client 9 is able to use any one of several known IM protocols to submit the request. Petrovykh states that "in one embodiment server 1003 may have translation software in order to translate all kinds of supported IM protocols into **one unified protocol** supported by CSRs." Petrovykh, page 18, para. 0187. Petrovykh makes no other mention of translation.

Petrovykh, unlike the present invention, is able to use one unified protocol, because the calling center 21 is "the destination," the message has already reached "the destination" when it is received by the calling center, and the calling center knows how to communicate within itself. Therefore, **Petrovykh performs a single translation** upon receiving the request from the client but does not both "translat[e] a calling convention of the message to a calling convention of a base code" and "translat[e], in response to the selecting, the message in the calling convention of the base code to a calling convention of the third party application determined to be the destination of the message"

In addition, the status server of Petrovykh, instead of forwarding the message to an agent, **answers back to the client with information pertaining to the availability of one or more of the agents.** Petrovykh, page 6, para. 0070. The user then has to select a preferred agent and initiate contact with that agent by performing a separate step. Petrovykh, page 7, paras. 0076, 0077. This difference between Petrovykh and the present invention is positively recited in Petrovykh with the sentence: "An interface of the type described above enables users to essentially browse agent-availability statistics **before** initiating any type of contact with the communication center 21."

Therefore, Petrovykh does not automatically "transmit[]" in response to the translating, the message to the selected third party application determined to be the destination of the message without further user intervention," as recited in the independent claims of the instant application.

Independent claims 13, 25, 37, 50, 51, 52, 65, 66, and 67 have been amended to contain limitations similar to independent claim 1 and distinguish over Petrovykh for the same reason as does independent claim 1.

The Examiner cites 35 U.S.C. § 102(b) and a proper rejection requires that a single reference teach (i.e., identically describe) each and every element of the rejected claims as being anticipated by Petrovykh.¹ Because the elements in independent claims 1, 13, 25, 37, 50, 51, 52, 65, 66, and 67 of the instant application are not taught or disclosed by Petrovykh, the apparatus of Petrovykh does not anticipate the present invention. The dependent claims are believed to be patentable as well because they all are ultimately dependent on either claim 1, 13, 25, 37, 50, 51, 52, 65, 66, or 67. Accordingly, the present invention distinguishes over Petrovykh for at least this reason. The Applicants respectfully submit that the Examiner's rejection under 35 U.S.C. § 102(b) has been overcome.

CONCLUSION

In this Response, Applicants have amended certain claims. In light of the Office Action, Applicant believes these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

Applicants acknowledge the continuing duty of candor and good faith to disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §1.56, all such information is dutifully made of record. The

¹ See MPEP §2131 (Emphasis Added) "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim."


foreseeable equivalents of any territory surrendered by amendment are limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

PLEASE CALL the undersigned if that would expedite the prosecution of this application.

Respectfully submitted,

Date: May 17, 2006

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